

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVON L. SMITH,

Plaintiff,

22cv1005

ELECTRONICALLY FILED

v.

NICHOLAS OHRMAN

SGT CO2, ET AL.,

Defendants.

Memorandum Order

This is a *pro se* prisoner civil rights case, brought pursuant to 28 U.S.C. Section 1983. Pending before the Court is the Motion for Summary Judgment filed by Corrections Defendants Nicholas Ohrman (“Ohrman”) and Joseph Trempus (“Trempus”). [Doc. 77](#).

On November 13, 2024, United States Magistrate Judge Kenzia O.L. Taylor, issued a thorough Report and Recommendation wherein it was recommended to grant summary judgment as to claims against Defendant Trempus, and to deny summary judgment as to a single Eighth Amendment claim of cruel and unusual punishment against Defendant Ohrman for an alleged incident of sexual assault committed by Defendant Ohrman against Plaintiff. Critically, the Report and Recommendation found that the following questions present genuine and material disputes of fact that must be resolved by a fact-finder/jury: (1) whether Plaintiff’s allegation of sexual abuse against Ohrman is true, and if so, (2) whether Ohrman sought to gratify his own sexual desire, whether Ohrman sought to humiliate Plaintiff, or was instead in the pursuit of a legitimate penological end.

Objections were due on November 27, 2024. To date, no objections have been filed by any party.

After *de novo* review thereof,

IT IS HEREBY ORDERED that Defendants' Motion for Summary Judgment ([Doc. 77](#)) is GRANTED as to the Eighth Amendment claim against Defendant Trempus and DENIED as to the Eighth Amendment cruel and unusual punishment claim against Defendant Ohrman. The Court therefore AFFIRMS and ADOPTS the Report and Recommendation on Summary Judgment in Whole ([Doc. 87](#)).

SO ORDERED this 16th day of December, 2024.

s/Arthur J. Schwab

Arthur J. Schwab

United States District Judge

cc: All Registered ECF Counsel and Parties

Davon L. Smith

MD-0777

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